

ENVIRONMENTAL PROTECTION COMMISSION
REGULAR MEETING/PUBLIC HEARING
MINUTES
July 9, 2008

7:30 P.M.
Room 206 Town Hall

Chairman Hillman called the meeting to order at 7:35 P.M. Commission Members Present: Peter Hillman, Craig Flaherty, Ellen Kirby, Rick Rohr, Michael Tone, and Pete Kenyon

Staff Present: Richard Jacobson

Court Reporter: Bonnie Syat

Mr. Hillman read the first agenda item:

Planning and Zoning Referral: Proposed Amendment to the Darien Zoning Map and Zoning Regulations, Affordable Housing Regulations, Site Plan Application, Land Filling and Re-grading Application #208, Christopher and Margaret Stefanoni, 77 Leroy Avenue.

The Commission reviewed the draft for the referral letter and made changes. Mr. Hillman made a motion to approve the referral language as revised. Ms. Cameron seconded the motion and it passed unanimously.

Mr. Hillman read the next agenda item:

EPC-10-2008, Gloria Gouveia, 25 Brookside Road, proposing a revision to an approved two lot subdivision to construct one new house within the upland review area. The site is shown on Assessor's Map #16 as Lot #66.

The Commission discussed the draft resolution for approval.

Mr. Hillman said there was not enough expert testimony to convince him that there would be an adverse impact from moving the house closer to the river.

Mr. Flaherty said the shift is an unjustified encroachment and may have the potential to impact flood conveyance.

Mr. Rohr said the additional plantings would not be permanent. He said the modular vs. stick-built construction is only a short term benefit. There is a loss of conservation easement area on the proposed new lot. He said there is an increase in building coverage and an increase in impervious surface area. He said the project may help with runoff a little bit but it would decrease flood capacity. He said that item two of the March 20 Analysis and Comparison is incorrect in the statement that there the easement has been extended and expanded.

Ms. Cameron said there is a reduction in the easement area behind the new house and there will be little backyard behind the existing house owing to the increase in the easement area there.

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Mr. Hillman made a motion to approve the application. Ms. Kirby seconded the motion and it failed 4-3. (Mr. Flaherty, Mr. Rohr, Ms. Cameron and Mr. Kenyon were opposed.) The Commission requested staff to draft a resolution denying the application.

EPC-16-2007, 5 Holly Lane Associates (formerly Patrick Goulding and Anna Zaranski), proposing an amendment to the drainage plan and a sump pump discharge to a regulated area. The site is shown on Assessor's Map #9 as Lot #147.

The Commission discussed the draft approval and made changes.

Ms. Kirby asked how the Commission could prevent sump discharges if they are not allowed to connect to the Town drain. Mr. Flaherty said the Commission can require the sump discharge to be shown on the plan and it should be on an application checklist.

Mr. Kenyon said an error in judgment by the staff is to the detriment of the Commission and the neighborhood. He said the mitigation should be filling in the basement.

Ms. Cameron said the Town's prior policy was to allow sumps to connect to the storm drains.

Mr. Flaherty said they could have connected anytime up to one day prior to the policy being in effect without EPC approval.

Mr. Hillman made a motion to approve the resolution as revised. Mr. Tone seconded the motion and it passed 6-1. (Mr. Kenyon was opposed).

Commissioner Kenyon dissented from the approval of this application amendment because the breakdown in the regulatory building approval process allowed the situation to circumvent the spirit and intent of the regulations to the advantage of the applicant and to the detriment of the Town of Darien, its Planning and Zoning Staff, and the neighborhood and environment of the Holly Lane neighborhood area. It is critical for the Environmental Protection Commission and Staff to understand that a town with significant Inland Wetlands and Regulated Area, that is now 98.5% developed, requires utmost vigilance in areas well known and highly prone to flooding, and where the testimony of neighbors stated that all of the other residences in said area are either built on a slab or have only a minimal crawl space. He stated that he was "grossly offended by the developed situation, and could not, in good conscience, vote for any amendment that doesn't require nullification of the existence of a full basement."

Mr. Hillman read the next agenda item:

EPC-15-2008, Steven and Barbara Kiskien, 12 Brown Street, proposing demolition of existing house and new house construction within an upland review area. The site is shown on Assessor's Map #23 as Lot #1.

Mr. Flaherty was recused for this application.

The Commission discussed the draft resolution.

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Mr. Hillman said he would like to include a statement recognizing the benefits of using geothermal heating and cooling as a Conservation Commission.

Ms. Cameron made a motion to approve the application. Mr. Tone seconded the motion and it passed 6-0 (Mr. Flaherty was recused).

Mr. Hillman read the next agenda item:

EPC-26, 2008, Darien YMCA, 2420 Boston Post Road, proposing a building addition within an upland review area. The site is shown on Assessor's Map #53 as Lot #60.

The Commission reviewed the draft approval.

Mr. Hillman gave a summary of the jurisdictional issue and said that Town Counsel supported their decision to assert jurisdiction.

Mr. Kenyon said he would dissent based on his experience that the pool is underutilized and there are feasible and prudent alternatives.

Mr. Hillman said that there must first be a demonstrated impact on Holly Pond before there is a need to review alternatives.

Mr. Tone said the review must be limited to significant adverse impacts. He said the mitigation measures will provide a significant beneficial effect.

Mr. Rohr said he felt there will be a significant impact and that no other applicant would be allowed to build that close to Holly Pond.

Ms. Cameron said the neighbor who said they were denied may have been denied by P&Z because the EPC has approved construction this close to Holly Pond.

Ms. Cameron made a motion to approve the application. Mr. Tone seconded the motion and it passed 5-2. (Mr. Kenyon and Mr. Rohr were opposed).

Commissioner Kenyon dissented from approval of this application because there was a reasonable and prudent alternative to the proposed encroachment into the 100 foot Regulated Area abutting Holly Pond, a tidally influenced body of water. A smaller pool dedicated to water exercises and other waist-deep pool activities could have been designed that would have kept any construction out of the Regulated Area. He stated that he knew by personal experience that the existing Large Pool [6 lanes wide, 25 yards long, and depths ranging from 10 feet at one end to 4 feet at the other end] is being misused by allocating 3 lanes, ½ of the pool area, to activities that can't be conducted in the deep end, thus leaving ¼ of the pool area unused during the water exercise and other waist-deep water activities times. Existence of a dedicated small water exercise/waist-deep activity pool, outside the Regulated Area, would also allow better utilization of the existing Large Pool. Also, during the Public Hearings, neither the applicant nor its agent provided any details about the construction plan elevations/depths or the construction sequences, particularly the activities that would be taking place in the Regulated Area and how Holly Pond would be protected against them.

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Mr. Hillman read the next agenda item:

EPC-36-2008, Robert and Justine Stewart, 24 Cross Road, proposing house demolition and new house construction within an upland review area. The site is shown on Assessor's Map #69 as Lot #11.

Mr. Stewart represented himself.

Mr. Hillman said the Commission typically schedules demolition and re-build applications for public hearing as it would be in the public interest.

Ms. Cameron asked if the septic would be a living filter. Jim McTigue, Builder said only the reserve.

The Commission requested a wetland planting plan and a drainage study. Mr. Matto said they would put in infiltrators. Ms. Cameron asked them to consider a rain garden.

Mr. Rohr asked if there be a sump pump discharge. Mr. Matto said they would show it.

Mr. Kenyon asked them to show the existing septic system and any proposed tree removal.

The Commission scheduled the hearing for August 6.

Mr. Hillman read the next agenda item:

EPC-40-2008, Glazer Construction, 135 Five Mile River Road, proposing house demolition and new house construction within an upland review area. The site is shown on Assessor's Map #67 as Lot #4.

Tom Ryder, Land Tech Consultants, represented the applicant.

Mr. Hillman said the Commission would schedule a public hearing because it would be in the public interest.

Mr. Kenyon asked them to maximize the use of pervious surfaces.

Ms. Cameron asked them to consider pulling the pool closer to the house and flag the trees to be removed.

The Commission scheduled the hearing for August 6.

Mr. Hillman read the next agenda item:

EPC-37-2008, Keith and Sarah Edwards, 6 Bishops Gate, proposing a fence within an upland review area. The site is shown on Assessor's Map #45 as Lot#3.

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Keith Edwards represented himself.

Mr. Flaherty made a motion to approve the application. Mr. Hillman seconded the motion and it passed 6-1 (Mr. Kenyon abstained).

Mr. Hillman read the next agenda item:

EPC-38-2008, Robert and Mary Jane Masi, 80 Goodwives River Road, proposing a portion of a septic system within an upland review area. The site is shown on Assessor's Map #62 as Lot #2.

Mr. Rohr was recused for this item.

Todd Ritchie represented the applicant. He said the existing septic system is adequate but they are required to replace the tank.

Mr. Hillman said he did not see any potential impact.

Ms. Cameron asked about the increases in impervious coverage. Joseph Matto, Architect said they were proposing Cultech storage units to handle the increase.

Ms. Kirby made a motion to approve the application. Mr. Flaherty seconded the motion and it passed 5-1 (Ms. Cameron abstained).

The Commission continued the following items until August 6.

EPC-39-2008, Lance E. Zimmerman, on behalf of Robert and Victoria Patton 27 Royle Road, proposing house additions within an upland review area. The site is shown on Assessor's Map #6 as Lots #48 & 49.

EPC-41-2008, Sarah and Daniel Kunetz, 19 Archer Drive, proposing a porch addition within an upland review area. The site is shown on Assessor's Map #42 as Lot #109.

Mr. Hillman read the first public hearing item:

EPC-32-2008, Ellen McCue 17 Top'O Hill Road, requesting after the fact approval to complete filling and stone wall construction within an upland review area. The site is shown on Assessor's Map # 29 Lot #87.

This application was opened and continued to August 6.

EPC-21-2008, James Hines, 10 Libby Lane on behalf of Archibald Russell, proposing house demolition and construction of a new house within an upland review area. The site is shown on Assessor's Map #9 as Lot #53. (continued from June 4)

Mr. Hines represented the applicant. He introduced Wayne D'Avanzo, P.E.

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Mr. Hillman said that the Commission was informed that the ZBA denied the request to have the existing house stay on the lot during construction, therefore, the stormwater from two homes was no longer an issue.

Mr. Hines said they made the changes the Commission requested.

Mr. Flaherty asked about the location of the discharge of the sump pump. Mr., Hines said it would discharge downstream of the galleries.

Mr. D'Avanzo said they made the driveway smaller than the original. There is virtually no difference in runoff but they are still providing detention.

Mr. Tone asked if the property is up gradient of Holly Lane. Mr. D'Avanzo said yes.

Mr. Flaherty said the sump pump discharge is small compared to the existing roof leader discharge with no detention.

Mr. Hillman opened the meeting to public comment.

Attorney Wilder Gleason said the Commission could consider reducing the size of the basement.

Mr. Hillman made a motion to close the public hearing. Mr. Flaherty seconded the motion and it passed unanimously.

The Commission proceeded to deliberate.

Mr. Hillman said he would be inclined to approve the application.

Mr. Flaherty said he would not make any additional changes.

The Commission requested staff draft a resolution to approve the application.

Mr. Hillman read the next hearing items:

EPC-18-2008, Mitchell and Kerry Ross, 10 Nickerson Lane (Lot 10), proposing house demolition, and re-grading within 100 feet of Holly Pond. The site is shown on Assessor's Map #52 as Lot #9. (continued from June 18)

EPC-19-2008, Mitchell and Kerry Ross, 10 Nickerson Lane (Lot 11), proposing house demolition, and new house construction within 100 feet of Holly Pond. The site is shown on Assessor's Map #52 as Lot #8. (continued from June 18)

Attorney Robert F. Maslan, Jr. represented the applicant. He said they had completed their presentation and Stearns & Wheler had incorporated the comments into revised plans. He submitted additional plans and a memo from Don Ferlow.

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Mr. Ferlow said the existing flow runs directly off the site. The proposed plan provides infiltrators and will result in a reduction of impacts. He said the garage elevation was raised above the 100 year floodplain. The driveway was moved farther away from Holly Pond and the stormwater overflow structure was moved closer to the house. He compared the previous design alternatives with the current plan.

Mr. Hillman opened the hearing for public comment.

Attorney Wilder Gleason represented the Van Dijks. He said there was additional information the Commission needed to determine impacts. He provided a list of questions for the applicant.

Mr. Hillman requested that Mr. Ferlow respond to the items on Mr. Gleason's list before the next hearing.

The Commission continued the public hearing to July 23.

Mr. Hillman read the next hearing item:

EPC-16-2008, Mark Alex Maidique, 00 Raymond Street, proposing house and shed demolition, and grading activity related to two new residences, within an upland review area. The site is shown on Assessor's Map #36 as Lot #107 & 108.

The hearing was opened and continued to August 6.

Mr. Hillman read the next hearing item:

EPC-31-2008, Katherine Michele, 19 Stephanie Lane, proposing demolition of existing residence, construction of new dwelling and pool, and related site development within an upland review area. The site is shown on Assessor's Map #8 as Lot #67.

Cory Walton, Landscape Architect, Wesley Stout Associates, represented the applicant. He said a portion of the proposed terrace will be in the wetland. He said they are proposing 250 sq. ft. of activity in the wetland and 4000 square feet in the upland review area.

Ms. Cameron asked him how much closer to the wetland will it be compared to the existing house. Mr. Walton said approximately 20 feet. She asked what the square footage of the house will be compared to the existing. Charles Laux, Architect said the existing is 2000 sq. ft. compared to 5500 proposed.

Larry Liebman of S.E. Minor said the existing impervious surface is 0.164 acres compared to 0.318 acres. He said the drainage system will be designed for a 100 year storm.

Mr. Hillman asked about the function of the existing wetland. Mr. Liebman said the quality of the wetland will not be impacted. He said the wetland will be enhanced. He said the original pool plan was in the backyard approximately 20 feet from the wetland on both sides. He said the proposed pool terrace will be 25 feet from the wetland.

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Mr. Tone asked if the surface of the terrace would be impervious. Mr. Liebman said it would be. Mr. Tone suggested the applicant consider offering a conservation easement.

Mr. Hillman opened the hearing to public comment.

Mrs. Lewis, Stephanie Lane, said there is an area in her backyard with standing water six months of the year. She said she would not want to have more water directed to that area. Mr. Liebman said the wetland flow will not be changed.

Chris Conley, Stephanie Lane, said they do not want anymore runoff. Leonard Chesney, P.E. of S.E. Minor said there is no storage currently on the site. He said the proposed Cultech units will store the 100 year 24 hour storm. He said they will submit a maintenance plan for the system.

Ms. Cameron asked them to flag the trees to be removed.

Mr. Flaherty said he is concerned with the proposed large house right up against the wetland. He asked for the test pit data in the area of the Cultech units and perc tests.

The Commission also requested details on the basement waterproofing, a site plan with zoning setbacks, and a wetland functional analysis. They also requested a gutter capacity analysis and a tree removal plan.

Ms. Cameron asked if there would be an oil and grit separator for the driveway. Mr. Chesney said the first units of the Cultechs would be oil and grit separators.

Vince Falotuci, Architect, asked if the Commission could provide them with guidance. The Commission suggested they consider a smaller house. Ms. Cameron said they should at least consider a house no closer to the wetland than the existing.

The public hearing was continued to August 6.

Mr. Rohr made a motion to adjourn. Ms. Cameron seconded the motion and it passed unanimously. The meeting was adjourned at 11:20 p.m.

Respectfully submitted,

Richard B. Jacobson
Environmental Protection Officer